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Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

No. CR 09-476-2-MO

PLAINTIFF,

**MOTION TO CONTINUE
TRIAL DATE**

vs.

JOE MCBROOM,

DEFENDANT.

Defendant Joe McBroom, through counsel, Francesca Freccero, moves this Court to continue for approximately sixty days the trial currently set for February 23, 2010, for the reasons described below.

Mr. McBroom and his co-defendant, Ed Needles, are accused in a one-count Information with maintaining a residence on National Forest Service land, in violation of 36 C.F.R. § 216.10 (b). The accusation concerns the defendants' mining operation in eastern Oregon, as discussed in the government's Response to the defendants' *pro se* Motion to Quash.

The attorneys for the parties have met to discuss this matter. The legal issues are relatively complex, despite the low classification ("B" misdemeanor) of the crime charged, because they involve the interpretation of various federal statutes concerning mining in the United States. In addition, according to the government, related issues have been litigated in the administrative law context, through the appellate level. The government intends to make that administrative record available for counsel to review. The government also has indicated that other discovery is forthcoming, and that it may seek an amended Information. The government anticipates that additional discovery will be available for the defendants' review beginning in early February.

For those reasons, Mr. McBroom seeks additional time to research the applicable law, review discovery, and prepare any potential pretrial motions. At this time, the parties request an extension of approximately 60-days, but recognize that more time may be necessary for the final preparation and litigation of the motions and trial.

Mr. Needles, through counsel, Kendra Matthews, will make a similar motion.

Assistant U.S. Attorneys Dwight Holton and Neil Evans have no objection to the motion to continue.

Mr. McBroom and undersigned counsel have discussed his speedy trial rights. Mr. McBroom acknowledges his right to a speedy trial under the Speedy Trial Act and agrees that this motion will result in excludable delay under the Act. If granted, this continuance will constitute excludable delay to April 27, 2010, pursuant to Title 18, United States Code, Section 3161(h)(8)(A). The ends of justice served by granting this motion outweigh the best interests of the public and Mr. McBroom in a speedy trial.

The instant motion is made in good faith and not for purposes of delay.

Respectfully submitted this 21st day of January, 2010.

/s/ Francesca Freccero

Francesca Freccero

Attorney for Defendant